



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

May 5, 2008

Ordinance 16084

Proposed No. 2008-0226.3

Sponsors Patterson, Gossett, Ferguson,
Phillips and Constantine

1 AN ORDINANCE approving and authorizing the county
2 executive to participate with the Port of Seattle in a
3 transaction to acquire the BNSF Eastside Rail Corridor; and
4 declaring an emergency.
5

6 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

7 SECTION 1. Findings:

8 A. On April 14, 2008, the King County executive transmitted to the King County
9 council an interlocal agreement, a proposed purchase and sale agreement and a proposed
10 donation agreement involving Burlington Northern Santa Fe Railway Company
11 ("BNSF"), the Port of Seattle, and King County. Among other things, these agreements
12 provide that the Port of Seattle at closing will grant the county a Public Multipurpose
13 Easement for the county's use of the railbanked portion of the corridor; and that the
14 county will serve as the "Interim Trail User" in accordance with 49 C.F.R. 1152.29 and
15 Section 8(d) of the National Trails System Act (also known as the "Rails-to-Trails Act").

16 B. The proposed purchase and sale agreement and the donation agreement
17 require the county to obtain necessary authorization for the transactions from its

governing body by May 15, 2008, or the county may terminate the agreements by written notice given to BNSF by that date. Enactment of this ordinance as an emergency ordinance is necessary to make this authorization legally effective before that date.

C. In 2003, BNSF announced its intent to divest itself of the Woodinville Subdivision and Redmond Spur, which together are referred to as the Eastside Rail Corridor ("ERC"), a one-of-a-kind forty-two-mile corridor vital to the economic future of King County and six separate eastside jurisdictions.

D. On May 16, 2005, the King County executive announced that King County had entered into exclusive negotiations with BNSF to acquire this vital corridor into public ownership for use as a trail and to preserve its potential for additional transportation options in the future.

E. Since 2006, King County councilmembers, the Port of Seattle and the executive have been in discussions to find a collaborative and mutually beneficial way to acquire this vital transportation corridor through a regional partnership.

F. On December 17, 2007, the county council approved Ordinance 15995 by a vote of eight ayes, no nos and one excused, authorizing and requesting the King County executive to negotiate agreements with the Port of Seattle and BNSF that contained the following elements:

1. Waiver of the county's exclusive right to negotiate a purchase and sale agreement with BNSF to allow the Port of Seattle to negotiate a purchase and sale agreement for the ERC with BNSF;

2. The port's execution of a purchase and sale agreement for the ERC by December 31, 2007;

41 3. A right of first refusal for King County in the event the Port of Seattle
42 determined to sell any or all of the ERC, and a subsequent right of first refusal to any
43 other public agency authorized by Washington state to provide transit, rail services, or
44 trails;

45 4. Agreement between the Port of Seattle and the county on the principle of dual
46 usage; and

47 5. Agreement between the port and the county to create a formal multiagency
48 process to plan for dual uses of the corridor.

49 G. King County recognizes and expresses gratitude to BNSF for its willingness to
50 make a valuable donation to the public of a substantial portion of the ERC, thus enabling
51 this transaction to move forward.

52 H. King County further recognizes the participating parties' efforts to forge a
53 collaborative approach to protect the interests of the citizens of King County in acquiring
54 the ERC and to provide new transportation options for our region.

55 I. King County and the Port of Seattle have many mutual interests and shared
56 goals, such as: infrastructure improvements that make the region more globally
57 competitive; improved freight mobility and public transportation; the promotion of
58 tourism and recreational activities in the region; and enhancement of mobility, air quality
59 and healthy lifestyles through development of additional alternative transportation
60 modalities.

61 J. King County sincerely appreciates the Port of Seattle's efforts to acquire this
62 unique and vital transportation corridor to ensure it is preserved in public ownership, and
63 the Port of Seattle's interest in providing King County the opportunity to develop a public

64 trail that complements potential future commuter and non-interstate freight rail uses of
65 the corridor.

66 K. The county desires the railbanked portion to be used for commuter and non-
67 interstate freight rail purposes and a public trail that provides both recreational and
68 alternative transportation uses. Since the proposal was transmitted, the King County
69 council and executive have collaborated with the Port of Seattle's leadership to ensure
70 that the terms of the easement and an interlocal agreement appropriately recognize the
71 value of accommodating both commuter and non-interstate freight rail use and trail use,
72 recognizing that a trail promotes alternative transportation modalities in the corridor.

73 L. The King County council further appreciates the opportunity to work in a
74 collaborative manner with the Port of Seattle and the King County executive to develop a
75 formal, multiagency Regional Process to recommend appropriate uses of the corridor.

76 SECTION 2.

77 A. The King County council hereby approves King County's participation with
78 the Port of Seattle in the transaction to acquire the ERC consistent with agreements in
79 substantially the form of the Interlocal Agreement, the Purchase and Sale Agreement and
80 the Donation Agreement, and their exhibits, all as attached to this ordinance as
81 Attachments A through C to this ordinance.

82 B. The King County executive is hereby authorized to execute agreements in
83 substantially the form of the Interlocal Agreement, the Purchase and Sale Agreement and
84 the Donation Agreement, all as attached to this ordinance, and to implement the terms of
85 these agreements and to execute any documents necessary to carry out the transaction
86 authorized by these agreements.

87 C. The Interlocal Agreement and Easement have a number of joint
88 determinations to be made by the port and the county.

89 D. Agreement between the county and the port on the essential elements of the
90 Regional Process, including its timeframe, participants, and the resources to be provided
91 by each agency for the process, shall be contingent upon authorization by county
92 ordinance. It is the county's intent to negotiate such an agreement and to enact such an
93 ordinance, all no later than July 15, 2008.

94 E. Agreement with the port on the joint determination of the appropriate location
95 and size of the Trail Area shall be contingent upon authorization by county ordinance.

96 F. Agreement with the port on the joint determination of the appropriate timeline
97 for development of the trail shall be contingent upon authorization by county ordinance.

98 G. The King County executive shall provide quarterly reports to the council on
99 any proposed trail relocations or realignments that may be contemplated pursuant to
100 Section 2.2.2 of the Public Multipurpose Easement.

101 H. Any election by the county under Section 2.1.2 of the Public Multipurpose
102 Easement not to proceed with Trail Development and to take action to terminate this
103 agreement shall be contingent upon authorization by county ordinance.

104 SECTION 3. It is the intent of King County to consider seeking to renegotiate
105 certain terms of the Multipurpose Public Easement with the Port of Seattle, particularly
106 the terms related to the allocation of costs associated with relocation of the Trail Area
107 under Section 2.2.2 of the easement, and to do so following the conclusion of the joint
108 determination of the appropriate location and size of the trail and prior to commencement
109 of Trail Development, but no later than five years after Closing.

110 SECTION 4. The council acknowledges that the executive intends to acquire the
111 easement from the Port of Seattle using CFT funds previously appropriated in the 2007
112 Adopted Budget (Ordinance 15652) for project 315758 (MUL – Eastside Rail Trail). The
113 council wishes to consider other potential funding sources that may not carry the same
114 conditions as CFT, and will explore and consider the use of other funding sources prior to
115 closing. The council requests that the executive cooperate with the council to explore the
116 potential use of other funding sources.

117 SECTION 5. For the reasons set forth in section 1 of this ordinance, the council
118 finds as a fact that an emergency exists and that this ordinance is necessary for the

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119 immediate preservation of public peace, health or safety or for the support of county
120 government and its existing public institutions.

121

Ordinance 16084 was introduced on 4/14/2008 and passed as amended by the
Metropolitan King County Council on 5/5/2008, by the following vote:

Yes: 9 - Ms. Patterson, Mr. Dunn, Mr. Constantine, Ms. Lambert, Mr. von
Reichbauer, Mr. Ferguson, Mr. Gossett, Mr. Phillips and Ms. Hague

No: 0

Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

ATTEST:

APPROVED this ____ day of _____, ____.

Attachments

A. Interlocal Agreement Between King County and the Port of Seattle Regarding
Eastside Rail Corridor, dated May 3, 2008, B. Purchase and Sale Agreement--
Woodinville Subdivision - North Rail Line, dated May 2, 2008, C. Donation
Agreement--Woodinville Subdivision - South Rail Line, dated May 2, 2008